IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION

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INDEX OF STATE COURT PLEADINGS AND FILING DATES

TAB	DOCUMENT	DATE
1.	State Court Docket Sheet of the 13 th Judicial District Court, Navarro County, Texas for Cause No. D22-30371-CV	04/29/2022
2.	Plaintiff's Original Petition	03/24/2022
3.	Citation Issued to Defendant Wal-Mart Stores Texas, LLC	03/29/2022
4.	Service of Process on Defendant Wal-Mart Stores Texas, LLC	03/30/2022
5.	Defendant's Wal-Mart Stores Texas, LLC's Original Answer to Plaintiff's Original Petition	04/25/2022

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: All Courts Help

REGISTER OF ACTIONS CASE No. D22-30371-CV

The Estate, of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III as wrongful death beneficiary vs Wal-Mart STORES TEXAS, LLC

§ § š

Injury/Damage: Other Injury or Case Type: Damage

03/24/2022 Date Filed: Location: **District Court**

PARTY INFORMATION

Plaintiff The Estate, of Rosa Urrutia, by and through

its personal representative, Alphonzo Lincoln Howard III as wrongful death

beneficiary

12222 Merit Drive, Suite 1200

Dallas, TX 75251

Lead Attorneys Julie Wolf Retained 972-338-4477(W)

WAL-MART STORES TEXAS, LLC Respondent

1999 BRYAN STREET, SUITE 900

DALLAS, TX 75201

DEREK S. DAVIS Retained 214-712-9500(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

03/24/2022 Original Petition (Civil and Family)

03/29/2022 Citation

ISD WAL-MART STORES TX. LLC / EFILED TO ATTY

04/01/2022 Citation Return

03/30/22 @ 12:35 PM

04/25/2022 Answer

Defendant Wal-Mart Stores Texas, LLC's Original Answer to Plaintiff's Original Petition

FINANCIAL INFORMATION

Plaintiff The Estate, of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III as wrongful death beneficiary **Total Financial Assessment** 358.00 Total Payments and Credits 358.00 Balance Due as of 04/29/2022 0.00

03/28/2022 03/28/2022

Transaction Assessment

THE ESTATE OF ROSA URRUTIA. BY AND

THROUGH ITS PERSONAL REPRESENTATIVE, ALPHONZO LINCOLN HOWARD III, AS

Receipt # DC-182441 eFile Payment INDEPENDENT ADMINISTRATOR OF HER ESTATE.

AND ALPHONZO LINCOLN HOWARD III AS

WRONGFUL DEATH BENEFICIARY

03/28/2022 STATE CREDIT (137.00)

358.00

(221.00)

Page 5 of 5 piged: 1024/3029 1145 AM Joshua B. Packett District Clerk Navarro County, Texas

NAVARRO COUNTY, TEXAS

By Yolanda Medrano Deputy

	D22-30371-CV	
CAUSE NO.		

THE ESTATE OF ROSA URRUTIA, by and through its personal representative, SALPHONZO LINCOLN HOWARD III, as independent administrator of her estate, and ALPHONZO LINCOLN HOWARD III as wrongful death beneficiary SPlaintiff, STORES TEXAS, LLC STORES TEXAS, LLC STORES TEXAS, LLC

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

Defendants.

COMES NOW, The Estate of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III, as independent administrator of her estate and as wrongful death beneficiary (hereinafter referred to as "Plaintiff"), who files this Plaintiff's Original Petition against WAL-MART STORES TEXAS, LLC (hereinafter referred to as "Defendant"), and respectfully shows this Court as follows:

I. RULE 47 STATEMENT OF RELIEF

Plaintiff prefers to have this Honorable Judge, or a jury determine the fair amount of compensation for Plaintiff's damages, and Plaintiff places the decision regarding the amount of compensation to be awarded in this Honorable Judge or jury's hands. However, pursuant to Rule 47 of the Texas Rules of Civil Procedure, Plaintiff is required to provide a statement regarding the amount of monetary relief sought. Accordingly, Plaintiff seeks monetary relief over

\$1,000,000.00 and makes a demand for judgment for all the other relief to which the Plaintiff may deem themselves entitled.

I. <u>DISCOVERY CONTROL PLAN</u>

Plaintiff submits this action under Discovery Control Plan II, per Rule 190.3 of the Texas Rules of Civil Procedure.

II. PARTIES AND SERVICE

Plaintiff is a resident of Tarrant County, Texas.

Defendant Wal-Mart Stores, Texas LLC is a company doing business and/or owns property in the State of Texas. Defendant may be served by serving its registered agent, CT Corporation System located at 1999 Bryan St., Ste. 900, Dallas, Texas 75201. <u>Issuance of citation is requested at this time.</u>

III. <u>JURISDICTION</u>

This Court has jurisdiction as Plaintiff's damages exceed the minimum jurisdictional limits of this Court. The Court has personal jurisdiction over the Defendant as Defendant performed work, and/or hired personnel to perform work in Navarro County, Texas, and owns property.

IV. <u>VENUE</u>

Venue is proper in Navarro County, Texas, pursuant to 15.002 of the Texas Civil Practice and Remedies Code, because the facts that give rise to the causes of action occurred in Navarro County, Texas.

II. FACTS

At all times relevant, Defendant was the possessor in control of the property where Rosa Urrutia was injured located at 3801 W, TX-31, Corsicana, Texas. On May 10, 2020, Rosa Urrutia was patronizing the Wal-Mart, walking through the parking lot when she tripped and fell on a

divot/hole in the parking lot. The divot/hole was irregular in size, and deep enough for Ms. Urrutia's foot to get caught as she as walking. As a result, Ms. Urrutia suffered significant injuries, which she never recovered from and passed away. The personal representative of the estate and her rightful heir brings this lawsuit for damages that are more fully described below.

III. PREMISES LIABILITY

A premises owner or occupier has a duty to exercise reasonable care to make the premises safe for invitees. This duty can be satisfied by reducing or eliminating an unreasonable risk of harm created by a premises condition about which the property owner knew or should have known. This requires a premises owner or occupier to take whatever action is reasonably prudent under the circumstances to reduce or to eliminate the unreasonable risk from that condition. When such a duty is owed, the premises owner or occupier must either adequately warn of the dangerous condition or make the condition reasonably safe.

Plaintiff was an invitee on Defendant's premises as Plaintiff was patronizing Defendant's business. At the time of the incident, which forms the basis of this lawsuit, Defendant owned and/or controlled the premises. Thus, Defendant owed a legal duty to Rosa to warn or make safe any condition posing an unreasonable risk of harm of which the landowner had actual or constructive knowledge. A landowner is responsible not only for conditions of which he or she has actual knowledge, but also those of which he or she is deemed to have constructive knowledge. This means that the landowner *could* have discovered the condition with a reasonable inspection, even if the landowner failed to make an inspection.

The condition of the parking lot posed an unreasonable risk of harm to invitees such as Rosa Urrutia. The condition of the parking lot had been there for a significant amount of time, that a reasonable inspection would have revealed the condition. Wal-Mart had a duty to use reasonable

car4e to either warn Ms. Urrutia or make the condition in the parking lot safe, and Wal-Mart breached its duty of care to Ms. Urrutia by failing to take any action to warn or make safe the condition in the parking lot. After the fall, Wal-Mart filled in the divot in the parking lot with some sort of material or adhesive, and the divot is no longer there.

Defendant was guilty of negligence towards Rosa Urrutia in the following respects:

- Failing to keep the premises in a reasonably safe condition for Rosa Urrutia; a.
- b. Failing to inspect the premises to discover the hole/divot;
- Failing to maintain and repair the hole/divot; c.
- Creating the hole/divot; d.
- Failure to provide warning of the hole/divot; and e.
- f. Failure to take any action to eliminate or reduce the unreasonable risk of danger presented by the hole/divot.

Defendant's failure to use reasonable care was a proximate cause of Ms. Urrutia sustaining injuries, damages, and death as described below.

V. WRONGFUL DEATH DAMAGES

Plaintiff, individually, and as personal representative of the Estate of Rosa Urrutia, bring this cause of action pursuant to Chapter 71 of the Texas Civil Practices & Remedies Code as wrongful death beneficiary and as sole heir of the Estate of Rosa Urrutia.

Plaintiff is the sole surviving heir of Rosa Urrutia.

Plaintiff seeks a judgment against Defendant for any and all wrongful death damages which the law allows, both past and future, including, but not limited to:

Pecuniary loss (meaning the loss of the care, maintenance, support, services, a. advice, counsel, and reasonable contributions of a pecuniary value that the Plaintiff,

- in reasonable probability, would have received from Rosa Urrutia had she lived);
- b. Loss of companionship and society (meaning the loss of the positive benefits flowing from the love, comfort, companionship, and society that Plaintiff, in reasonable probability, would have received from Rosa Urrutia had she lived);
- c. Mental anguish (meaning the emotional pain, torment, and suffering experienced by Plaintiff because of the untimely death of Rosa Urrutia); and
- d. Loss of inheritance (meaning the loss of the present value of the assets that Rosa Urrutia, in reasonable probability, would have added to the Estate and left at the natural death).

VIII. SURVIVAL DAMAGES

Plaintiff Alphonzo Lincoln Howard III, as personal representative of the Estate of Rosa Urrutia, also brings a survival cause of action pursuant to Chapter 71 of the Texas Civil Practice & Remedies Code on behalf of the Estate of Rosa Urrutia and/or the heir at law of Rosa Urrutia for damages including, but not limited to:

- a. Mental anguish in the past;
- b. Mental anguish in the future;
- c. Loss of Consortium in the past, including damages to the parent-child relationship, including loss of care, comfort, solace, companionship, protection, services, and/or parental love;
- d. Loss of Consortium in the future, including damages to the parent-child relationship, including loss of care, comfort, solace, companionship, protection, services, and/or parental love;
- e. Losses by virtue of the destruction of the parent-child relationship, including the

right to love, affection, solace, comfort, companionship, society, emotional support, and happiness;

Plaintiff seeks recovery of damages to the fullest extent allowable by law for survival cause of action owned by the Estate of Rosa Urrutia, pursuant to Chapter 71.021 of the Texas Civil Practice & Remedies Code. Plaintiff seeks a judgment against Defendant for any and all survival damages allowable by law including, but not limited to:

- Pain and mental anguish or conscious physical pain and emotional pain, torment,
 and suffering experienced by Rosa Urrutia before her death as a result of the occurrence in question;
- b. Medical expenses that are reasonable expense of the necessary medical and hospital care received by Rosa Urrutia for the treatment of the injuries sustained by her as a result of the occurrence in question; and
- c. Funeral and burial expenses of a reasonable amount for the funeral and burial of Rosa Urrutia reasonably suitable to his station in life.

IV. U.S. LIFE TABLES

Plaintiff hereby gives notice to Defendant that Plaintiff intend to use the U.S. Life Tables as used by the U.S. Department of Health and Human Services.

IX. NOTICE OF INTENT

Plaintiff hereby give notice of intent to utilize any and all items produced in discovery in the trial of this matter and the authenticity of such items is self-proven per the Texas Rules of Civil Procedure 193.7.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff will respectfully request that Defendant be cited to appear and answer, and that on final trial, Plaintiff be awarded judgment against Defendant for the following:

- a. Actual damages herein, in an amount within the jurisdictional limits of the Court;
- b. Wrongful death damages, for Plaintiff's actual damages and claims, including but not limited to, pecuniary loss, both past and future, loss of companionship and society, both past and future, physical, mental and emotional pain, torment, anguish and suffering, both past and future, medical and other damages to wit: loss of enjoyment of life, loss of consortium, loss of household services, loss of support and services, physical and mental impairment, disfigurement, mental and physical disability, depression, lost wages, wage impairment, and lost earning capacity; all in an amount in excess of the minimum jurisdictional limits of this Honorable Court;
- c. Survival damages, including but not limited to, pain and mental anguish, medical expenses, funeral and burial expenses;
- d. Prejudgment interest at the highest rate allowed by law from the earliest time allowed by law;
- e. Interest rate on the judgment at the highest legal rate from the date of judgment until collected;
- f. Costs of Court:
- g. Post-Judgment Interest on all sums awarded herein at the highest legal rate until paid; and

h. All such other and further relief at law and in equity to which Plaintiffs may show themselves to be justly entitled.

Respectfully submitted,

WOLF LAW, PLLC

12222 Merit Drive, Suite 1200 Dallas, Texas 75251

Tel: 972-338-4477 Fax: 972-338-5044

JULIE WOLF

Texas Bar No. 24051542 julie@wolflawpllc.com

CITATION

State of Texas

Cause No. **D22-30371-CV**

The Estate, of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III as wrongful death beneficiary vs WAL-MART STORES TEXAS, LLC

13TH DISTRICT COURT NAVARRO COUNTY, TEXAS

TO: WAL-MART STORES TEXAS, LLC 1999 BRYAN STREET SUITE 900 DALLAS, TX. 75201

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney does not file a written answer with the clerk who issued this citation by 10:00 am on the Monday next following the expiration of 20 days after the date you were served this citation and petition, a default judgment may be taken against you. In addition to filing a written answer with the clerk, you may be required to make initial disclosures to the other parties of this suit. These disclosures generally must be made no later than 30 days after you file your answer with the clerk. Find out more at TexaLawHelp.org. " TRCP. 99

You are hereby commanded to appear by filing a written answer to the Plaintiff's ORIGINAL PETITION at or before 10:00 o'clock A.M. on the Monday next after the expiration of 20 days after the date of service of this citation before the Honorable 13th District Court of Navarro County, at the Courthouse in said County in Corsicana, Texas. Said Plaintiff's Petition was filed in said court on March 24, 2022 in the above entitled cause.

The nature of Plaintiff's demand is fully shown by a true and correct copy of Plaintiff's Petition accompanying this citation and made a part hereof.

Issued and given under my hand and seal of said Court at Corsicana Texas this 29th day of March, 2022.

ATTORNEY FOR PLAINTIFF

Julie Wolf 12222 Merit Dr Suite 1200 Dallas TX 75251



CLERK OF THE COURT

JOSHUA B. TACKETT 300 W. 3RD AVE., STE. 201 CORSICANA, TX. 75110 NAVARRO COUNTY, TEXAS

PLAINTIFF NAME

The Estate, of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III as wrongful death beneficiary BY - Yulail Midsus _, DEPUTY

OFFICER'S RETURN

CASE #: D22-30371-CV

		CASE #. D22-30371	1-C V		
Came to hand on the	day of	by delivering to	at defendant	o'clock _	M. and executed the nereto on day of
in person, a true copy	0 at o'	with a copy of the clock M. at	e petition	attached th	nereto on day of in
[] Not executed. The dili	gence use in find	ing defendant being _			
[] Information received a	s to the whereabo	outs of defendant bein	ng		
Fees\$				_ Sheriff / C	Constable / District Clerk
					County, Texas
			Ву		, Deputy
** Service by Rule 106 T		other than a sherif		e, or clerk (of the court.
My name is		, my date of birth	ı is		, and my address is
I DECLARE UNDER PE Executed in		-			
			_	Declarant/A	Authorized Process Server
			_	(ID # & E:	xpiration of Certification)

Service of Process Transmittal

03/30/2022

CT Log Number 541318795

TO: KIM LUNDY- EMAIL

Walmart Inc.

GLOBAL GOVERNANCE/CENTRAL INTAKE, 2914 SE I STREET MS#0200

BENTONVILLE, AR 72712-3148

RE: **Process Served in Texas**

Wal-Mart Stores Texas, LLC (Domestic State: DE) FOR:

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Re: The Estate, of Urrutia Rosa, by and through its personal representative,

Alphonzo Lincoln Howard III as wrongful death beneficiary // To: Wal-Mart Stores

Texas, LLC

DOCUMENT(S) SERVED: Citation, Return, Petition

COURT/AGENCY: 13th Judicial District Court of Navarro County, TX

Case # D2230371CV

NATURE OF ACTION: Wrongful Death - Slip/Trip and Fall - 05/10/2020 - Wal-Mart Stores located 3801 W,

TX-31, Corsicana, Texas

ON WHOM PROCESS WAS SERVED: C T Corporation System, Dallas, TX

DATE AND HOUR OF SERVICE: By Process Server on 03/30/2022 at 12:38

JURISDICTION SERVED:

APPEARANCE OR ANSWER DUE: By 10:00 a.m. on the Monday next following the expiration of 20 days after service

ATTORNEY(S) / SENDER(S): Julie Wolf

Wolf Law, PLLC

12222 Merit Drive, Suite 1200

Dallas, TX 75251 972-338-4477

ACTION ITEMS: CT has retained the current log, Retain Date: 03/30/2022, Expected Purge Date:

04/04/2022

Image SOP

REGISTERED AGENT ADDRESS: C T Corporation System

1999 Bryan Street

Suite 900

Dallas, TX 75201

877-564-7529

MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



PROCESS SERVER DELIVERY DETAILS

Date: Server Name: Wed, Mar 30, 2022 Steve Friedenthal

Entity Served	WAL-MART STORES TEXAS, LLC
Case Number	D22-30371-CV
Jurisdiction	TX

Inserts *			
		•	



Filed: 4/25/2022 9:53 AM

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Navarro County, Texas
By Vicki Lewis Deputy

CAUSE NO. D22-30371-CV

THE ESTATE OF ROSE URRUTIA, by	§	IN THE DISTRICT COURT
and through its personal representative,	§	
ALPHONZO LINCOLN HOWARD III,	§	
as independent administrator of her	§	
estate, and ALPHONZO LINCOLN	§	
HOWARD III as wrongful death	§	
beneficiary	§	13 TH JUDICIAL DISTRICT
PLAINTIFF,	§	
12211,	§	
V.	§	
•	§	
WAL-MART STORES TEXAS, LLC	§	
·	§	
DEFENDANT.	§	NAVARRO COUNTY, TEXAS

DEFENDANT WAL-MART STORES TEXAS, LLC'S ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, WAL-MART STORES TEXAS, LLC ("Defendant") in the abovestyled and numbered cause, and files this Original Answer to Plaintiff's Original Petition, and in support hereof would respectfully show the Court the following.

I. GENERAL DENIAL

1. Defendant denies each and every, all and singular, the material allegations made and contained in the Original Petition and any petition which Plaintiff may hereinafter file by way of amendment or supplement, and, in accordance with Texas law, demands that Plaintiff prove by a preponderance of the credible evidence each and every such allegation made and contained therein, or the prevailing standard of proof required by applicable law.

II. AFFIRMATIVE DEFENSES

2. Pleading further, and in the affirmative, Defendant asserts the doctrine of

comparative causation as set forth in Chapter 33 of the TEXAS CIVIL PRACTICE & REMEDIES CODE, which may bar any recovery by Plaintiff, or may in the alternative reduce the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

- 3. Pleading further, if necessary, Plaintiff failed to mitigate Plaintiff's damages which may have resulted from the occurrence made the basis of this lawsuit.
- 4. In the alternative, and without waiving the foregoing, Defendant affirmatively pleads the defense set forth in Texas Civil Practice & Remedies Code § 18.091, requiring Plaintiff to prove Plaintiff's loss of earning and/or loss of earning capacity in the form which represents Plaintiff's net loss after reduction for income tax payments or unpaid tax liability on said loss or earning claim pursuant to any federal income tax law. *Id.* Additionally, Defendant requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal to state income taxes.
- 5. Additionally, to the extent Plaintiff's medical expenses exceed the amount actually paid on Plaintiff's behalf to Plaintiff's medical providers, Defendant asserts the statutory defense set forth in § 41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE. Thus, recovery of medical or health care expenses incurred by Plaintiff, if any, are limited to the amount actually paid or incurred by or on behalf of Plaintiff.
- 6. Pleading further, Defendant would show that it is entitled to a credit or offset equal to the amount of any and all sums that the Plaintiff has received, or may hereinafter receive, by way of settlement with any person or party. Alternatively, pursuant to Rule 48 of the Texas Rules of Civil Procedure, Defendant contends that it is entitled to a proportionate reduction of any damages found against it based upon the percentage of negligence attributable to the settling tortfeasor, cross claimant, designated third party, or other party to this case.

- 7. Pleading further, and in the affirmative, Defendant alleges Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in § 304.101 of the TEXAS FINANCE CODE and § 41.007 of the TEXAS CIVIL PRACTICE & REMEDIES CODE.
- 8. Pleading further, and in the affirmative, Defendant invokes §41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE concerning Plaintiff's claim for the recovery of health care expenses and other related damages, past and future.
- 9. Pleading further, and in the affirmative, Defendant asserts the doctrine of proportionate responsibility of TEXAS CIVIL PRACTICE & REMEDIES CODE Chapter 33, which may bar any recovery by Plaintiff, or may in the alternative, reduce the amount of recovery by Plaintiff based on Plaintiff's own percentage of fault.
- 10. Pleading further, and in the affirmative, Defendant would show that the alleged occurrence made the basis of this lawsuit was the result of circumstances and/or events that were not of Defendant's own creation. Defendant would further show that it acted just as a similar situated reasonable premises owner would have acted under the same or similar circumstances surrounding the matters made the basis of this lawsuit.
- 11. Pleading further, and in the affirmative, Defendant alleges that the injuries and damages alleged by Plaintiff may be due to Plaintiff's own negligence and recklessness in that Plaintiff's failure to exercise ordinary care proximately caused, in whole or in part, the alleged injuries and damages complained of by Plaintiff. Plaintiff's acts and omissions, whether taken together or separately, may be the sole proximate cause, or a proximate cause of the injuries and damages Plaintiff has alleged in this lawsuit. Any recovery by Plaintiff is therefore barred, or alternatively should be reduced in accordance with the applicable law.
 - 12. Pleading further, and in the affirmative, the injuries pled by Plaintiff may have

been caused, in whole or in part, by superseding and/or intervening causes, including preexisting conditions and/or injuries and subsequently occurring injuries and/or conditions that were not Defendant's own creation.

- 13. Pleading further, if necessary, Plaintiff's claims may have been caused by an unavoidable accident, Act of God, or an occurrence without any fault on the part of Defendant.
- 14. Pleading further and in the alternative, Defendant alleges that any claims for or recovery of exemplary damages against it violates the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, and Sections 3, 13 and 19 of Article I of the Texas Constitution, because such claims as made are arbitrary, unreasonable, and violate Defendant's rights to due process and equal protection of the laws.
- 15. Pleading further and in the alternative, to the extent any recovery of exemplary damages is found to be constitutional, Defendant invokes all the limitations upon damages and exemplary damages contained in Chapter 41 of the Texas Civil Practice & Remedies Code, both in terms of the maximum amount of damages that can be awarded pursuant to that statute and the procedural safeguards guaranteed by the referenced provisions.
- 16. Pleading further and in the alternative, Defendant also invokes all other applicable state law, federal law, statutory and/or common-law caps or limitations on exemplary damages.

III. NOTICE OF INTENT

17. Defendant further places Plaintiff on notice pursuant to TEXAS RULE OF CIVIL PROCEDURE 193.7 that may use in pretrial proceedings or at trial any and all documents and tangible things produced in discovery by plaintiff.

IV. DEMAND FOR JURY TRIAL

18. In accordance with Rule 216 of the TEXAS RULES OF CIVIL PROCEDURE,

Defendant hereby demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit against Defendant, that Defendant be discharged, and that the Court grant such other and further relief, both general and special, at law and in equity to which Defendant may be justly entitled.

Respectfully submitted,

COOPER & SCULLY, P.C.

By: <u>/s/ Derek S. Davis</u>

DEREK S. DAVIS

Texas Bar No. 00793591

Email: Derek.Davis@CooperScully.com

900 Jackson Street, Suite 100

Dallas, Texas 75202

Telephone: (214) 712-9500 Facsimile: (214) 712-9540

ATTORNEY FOR DEFENDANT WAL-MART STORES TEXAS, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of April, 2022, a true and correct copy of the foregoing document was served on counsel of record via the Court's ECF filing service as follows:

Julie Wolf

Wolf Law, PLLC 12222 Merit Drive, Suite 1200 Dallas, Texas 75251

Telephone: (972) 338-4477 Facsimile: (972) 338-5044

Service Email: julie@wolflawpllc.com ATTORNEY FOR PLAINTIFF

/s/ Derek S. Davis

DEREK S. DAVIS

Automated Certificate of eService

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Karri Minster on behalf of Derek Davis Bar No. 793591 karri.minster@cooperscully.com Envelope ID: 63854951 Status as of 4/25/2022 10:02 AM CST

Associated Case Party: The Estate, of Rosa Urrutia, by and through its personal representative, Alphonzo Lincoln Howard III as wrongful death beneficiary

Name	BarNumber	Email	TimestampSubmitted	Status
Wolf Law PLLC		service@wolflawpllc.com	4/25/2022 9:53:50 AM	SENT

Associated Case Party: WAL-MART STORES TEXAS, LLC

Name	BarNumber	Email	TimestampSubmitted	Status
Derek Davis		derek.davis@cooperscully.com	4/25/2022 9:53:50 AM	SENT
Kim Denton		kim.denton@cooperscully.com	4/25/2022 9:53:50 AM	SENT
Karri Minster		Karri.Minster@cooperscully.com	4/25/2022 9:53:50 AM	SENT